Remarks/Arguments

The Office Action dated December 4, 2006 has been noted and its contents carefully studied. In light of the following comments, reconsideration of the rejection under 35 U.S.C. §§ 103 and 112 is requested. Initially, it is noted that the Examiner indicated that Applicant's arguments with respect to the rejection of claims 1-13 under 35 U.S.C. § 112 as previously advanced for "receiving the anonymized identifier and information identifying the transmitted data that is associated with the anonymized identifier from the network service provider" have been considered and are persuasive. That rejection was withdrawn.

On the other hand, the Examiner has now advanced a new 35 U.S.C. § 112 rejection as failing to comply with the written description requirement. More specifically, the Examiner has indicated the claim contains subject matter which was not described in the specification in a way as to reasonably convey to one skilled in the relevant art that the inventor at the time the application was filed had possession of the claimed invention. More specifically, the Examiner cites the recitation in claim 1 of "obtaining an identifier at a network service provider representing one or more users of a computer network; creating an anonymized identifier using the identifier obtained from the network service provider." The Examiner has taken the position that the creating step must be performed by an entity other than the network service provider, but that the originally filed specification does not disclose an embodiment wherein the network service provider creates an identifier and another entity creates an anonymized identifier using the identifier obtained from the network service provider. The Examiner considers the limitation new matter.

In this regard, it is respectfully urged that the Examiner is incorrect, particularly when the specification is read in detail. More specifically, reference is made to the paragraph bridging pages 7 and 8 of the specification which states that the anonymized identifier is preferably obtained from the user name of the individual user. If user names are unavailable, the system can use any other unique identifier (e.g., MAC address, Internet Protocol (IP) address, or wireless mobile subscriber ISDN (MSISDN) identifier). The invention applies at one-way hashing function to the log in user names.

Further reference is made to page 9 which discusses the situation where the ISP is using a RADIUS server 207. The RADIUS server sends an authentication packet containing a user name associated with an IP address whenever a user successfully logs onto the network. To create the unique identifier 203 and associate it with an IP address, the collection engine needs to obtain a user name, as mentioned on page 9. Figures 2a and 2b expressly show the use of a user name. Figure 1 illustrates the radius server 207 connected to the collection engine 103 by equipment 102 of the ISP. These embodiments clearly support the claimed limitation of using an identifier obtained from a network service provider (the ISP) as recited in the claims.

Based on this description, one of ordinary skill in the art would understand how the anonymized identifier could be created in one of several ways and it is clear that the inventor was in possession of the invention at the time the application was filed. Accordingly, reconsideration and withdraw of the 35 U.S.C. § 112 rejection of the claims is courteously requested.

Turning now to the rejection of the claims as obvious over Rupp in view of Gabber and Carr, these references have been previously discussed, and when the invention is considered as recited in the claims, including creating the anonymized identifier using the identifier obtained from the network service provider, it is clear that the invention is not obvious from the cited combination of references.

More specifically, it is noted that the Examiner had previously indicated that claims 1-13 as based on the amendments filed September 26, 2005, would be allowable over Rupp in view of Gabber and Carr subject to addressing of the 35 U.S.C. § 112 first and second paragraph rejection. The claims presently before the Examiner substantially correspond to those claims which the Examiner had indicated were allowable, and for the same reasoning provided before, these claims are clearly allowable over the combination of references since the 35 U.S.C. § 112 rejection has been clearly addressed herein. More specifically, the reference to specific portions of the specification show how the anonymized identifier can be created from the identifier obtained from the network service provider and provide sufficient reasons to withdraw the 35 U.S.C § 112 rejection.

Nonetheless, to facilitate the Examiner's reconsideration, additional comments are made concerning the cited references and the distinctions between the cited references in combination as compared to the claimed invention.

"A Platform for Determining How People Value the Quality of Their Internet Access" by Rupp et al.

The publication authored by Rupp was previously cited by the Examiner both in this application, and in the parent application to this application which has issued as a patent. It is noted that the distinctions between the claims of the parent application which issued as a patent and those in this application are such that the arguments that led to the allowance of the parent application apply equally herein and for this reason claims 1-13 should be allowed.

As previously urged, it is only through hindsight interpretation of Applicant's claimed invention that the Examiner has been able to arrive at the rejection using Rupp. Rupp clearly states that it is an internet demand experiment which provides a market trial to provide information which service providers can use to understand the structure of user demand. The alleged collection engine is nothing more than a tracking billing server and has nothing to do with collecting anonymized transaction information to allow service providers and merchants to improve the marketing of products and services, and tailoring the products and services to meet the requirements of specific customer types.

As opposed to collecting information and drawing conclusions, it is the users in Rupp who provide usage feedback from their own computers by displaying a summary of charges for either the current session, the current day, or the current month. A control center application on the user's computer communicates the users choices at selected quality levels as controlled data going through a billing gateway through a supervisor. User traffic is monitored and recorded by the billing gateway and this is done through the control center and the billing gateway interacting.

Applicant's claimed invention has no control center and requires no interaction with the gateway or the service provider. Instead, as separately called for in the claims, there is provided a collection engine which does not correspond to what the Examiner has asserted is a collection engine in Rupp (a hindsight interpretation) connected to the network service provider which anonymously monitors and collects the traffic in a database separate from the network service provider. Rupp fails to teach or suggest such a collection engine, in combination with Applicant's other steps, and the remaining references also fail to supply the missing elements.

In all cases, Rupp requires interaction between the user computer and the gateway. In contrast, Applicant's invention provides for a separate collection engine which collects to data anonymously and does not require input from a user computer to be able to collect and assemble data in a separate database through the operation of a collection engine connected to the internet service provider.

U.S. Patent No. 5,961,593 to Gabber et al.

The patent to Gabber was also previously cited and adds nothing to the teachings of Rupp. More specifically, even if adding the concept of an anonymized identifier, which is already present in Rupp, is considered obvious, the combination would still fail to teach or suggest applicant's claimed invention as now recited in the claims.

U.S. Patent No. 5,835,915 to Carr et al.

The patent to Carr merely teaches a remote duplicate database facility having improved through put and fall tolerance. The facility is located in a local computer system and practically in a remote computer for maintaining virtual synchronizations of a backup database with a local database. This adds nothing to the teachings of Rupp and Gabber. Carr teaches nothing more than a backup database and has nothing to do with collecting transaction data across a network.

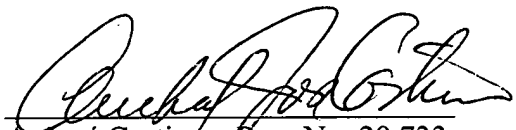
Turing now to the obviousness type double patenting rejection, attached is a terminal disclaimer referencing US Patent No. 6,983,379 which is commonly owned. In light of the filing

of this terminal disclaimer, it is believed the obviousness type double patenting rejection should be withdrawn.

For the foregoing reasons, it is respectfully urged that all of the claims clearly define patentable subject matter and that the application should be allowed and passed to issuance. Nonetheless, should the Examiner still have any comments, questions, or suggestions of a nature necessary to expedite prosecution of the application, or to place the case in condition for allowance, he is courteously requested to telephone the undersigned at the number listed below.

Dated: February 19, 2007

Respectfully submitted,



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Enclosures

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